

IN THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (CLEVELAND)

Shane J. Hardymon, :
Plaintiff, : Case No. 1:22-cv-00724-SO
vs. : Judge Solomon Oliver Jr.
Sheriff Scott M. Kent, et al., :
Defendants. :

**ANSWER ON BEHALF OF DEFENDANT BRIAN R. WILLIAMS,
M.D. TO PLAINTIFF'S SECOND AMENDED COMPLAINT**

Brian R. Williams, M.D., by and through counsel, for his Answer to Plaintiff's Second Amended Complaint, states as follows:

FIRST DEFENSE

1. Admits that Defendant Brian R. Williams, M.D. is a physician licensed to practice medicine in the State of Ohio and who provides competent radiology services. This Defendant denies the remaining allegations contained in paragraph 13 of Plaintiff's Second Amended Complaint.

2. Denies the allegations contained in paragraphs 1-3, 5-10, 12, 14-20, 68-75, 77-80, 82-90 and 93 of Plaintiff's Second Amended Complaint for want of knowledge sufficient to form a belief as to the truth thereof and/or such allegations are not directed at all to this Defendant.

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3. Denies the factual allegations contained in paragraphs 22-54 and 56-66 of Plaintiff's Second Amended Complaint for want of knowledge sufficient to form a belief as to the truth thereof and/or such allegations are not directed to this Defendant.

4. Denies each and every allegation contained in paragraphs 11, 55, 92 and 94-100 of Plaintiff's Second Amended Complaint.

5. Admits/denies the allegations contained in paragraphs 4, 21, 67, 76, 81 and 91 of Plaintiff's Second Amended Complaint in the same manner and to the same extent as previously admitted or denied herein.

6. Denies each and every other allegation not previously admitted or denied herein.

SECOND DEFENSE

7. Plaintiff's Second Amended Complaint in whole or in part fails to state a claim against this Defendant upon which relief can be granted.

THIRD DEFENSE

8. Plaintiff's Second Amended Complaint fails to state a claim against this Defendant upon which relief can be granted in that it fails to comply with the mandatory pleading requirements contained in Civil Rule 10.

FOURTH DEFENSE

9. Plaintiff's Second Amended Complaint is barred in whole or part by the applicable statutes of limitation.

FIFTH DEFENSE

10. Plaintiff's injuries and damages, if any, which injuries and damages are specifically denied, were caused by third persons, parties, or entities over which this Defendant had and could have had no control, including but not limited to, those

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person(s) or entity(ies) from whom Plaintiff seeks recovery in this action *and/or* those person(s) or entity(ies) from whom Plaintiff does not seek recovery in this action pursuant to Ohio Revised Code §§ 2307.22 and 2307.23.

SIXTH DEFENSE

11. Plaintiff's injuries and damages, if any, which injuries and damages are specifically denied, were caused or contributed to by Plaintiff's own negligence in an amount greater than the negligence of this Defendant, if any, which negligence is specifically denied.

SEVENTH DEFENSE

12. This Defendant is entitled to a set-off of damages and/or limitation of damages pursuant to statute and/or the Ohio Revised Code.

EIGHTH DEFENSE

13. Plaintiff has failed to join indispensable parties to this action.

NINTH DEFENSE

14. Plaintiff assumed the risks of the injuries and damages complained of, if any, which injuries and damages are specifically denied.

TENTH DEFENSE

15. Plaintiff has failed to mitigate damages.

ELEVENTH DEFENSE

16. This Defendant enjoys qualified immunity under federal law.

TWELFTH DEFENSE

17. This Defendant enjoys state law immunity under Ohio Revised Code Chapter 2744.

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THIRTEENTH DEFENSE

18. Any and all claims for damages are limited under Ohio Revised Code § 2744.05.

FOURTEENTH DEFENSE

19. Any recovery by the Plaintiff, which is denied, is subject to the provisions and limitations of Chapter 2315 of the Ohio Revised Code.

FIFTEENTH DEFENSE

20. This Defendant acted reasonably, in good faith, and did not violate clearly established law.

SIXTEENTH DEFENSE

21. At no time material hereto did this Defendant act with deliberate indifference to any federally protected rights of the Plaintiff.

SEVENTEENTH DEFENSE

22. Plaintiff's claims are barred by an intervening and superseding cause.

EIGHTEENTH -SIXTH DEFENSE

23. At all times, this Defendant acted reasonably, lawfully and in good faith. If, in fact, this Defendant performed any wrongful acts, which are specifically denied herein, such acts were not performed knowingly, purposely, with malicious purpose, in bad faith, intentionally, recklessly, willfully or wantonly.

NINETEENTH DEFENSE

24. This Court lacks jurisdiction in the within action.

WHEREFORE, having fully answered, this Defendant respectfully requests that Plaintiff's Complaint be dismissed with prejudice, costs to Plaintiff.

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Respectfully submitted,

/s/ John B. Welch

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JURY DEMAND

This Defendant demands trial by jury of the within action.

/s/ John B. Welch

John B. Welch

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of January, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF/eFiling system which will send notification of such filing to the following:

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